

Congress of the United States
Washington, DC 20515

September 19, 2022

Lisa F. García
Regional Administrator
EPA Region 2
Main Regional Office
290 Broadway
New York, NY 10007-1866

Dear Regional Administrator:

Thank you for your recent efforts to ensure the best use and protection of Puerto Rico's natural resources. This task is becoming increasingly important in a context where the purchase of coastal property and land for commercial expansion has increased,¹ and the trust in local environmental and construction permitting has been undermined.²³

I write to you with serious concerns about the ongoing environmental crisis in Cueva de las Golondrinas in the coastal municipality of Aguadilla. As you may know, in April 2022, an investigation revealed that two developers, the Cliff Corp. and Grupo Caribe, LLC, built several structures above the Karst caves and discharged pollutants into the beach waters. The enterprises also deforested the habitat of the federally protected migratory Brown pelican (*Pelecanus occidentalis*)⁴ and other wildlife species.⁵ One month later, Puerto Rico's Department of Natural and Environmental Resources (DNER) ordered the demolition of the structure and found that the developers did not have the required construction permits.⁶

The situation in Aguadilla raises concerns about possible violations to federal laws and regulations, including to the Clean Water Act (CWA). The CWA regulates pollutants discharges into the waters of the United States⁷ and establishes quality parameters for surface waters. Under this Act, a developer must obtain a permit under EPA's National Pollutant Discharge Elimination System (NPDES) before discharging any pollutant from a point source, such as a pipe or man-made ditch, into navigable waters of the United States.⁸

¹ Construction permits granted for projects on Puerto Rico's coastal area increased 239% in 2021, when compared to 2015.

² Coral Murphy Marcos, Patricia Mazzei & Erika P. Rodríguez, *The Rush for a Slice of Paradise in Puerto Rico*, The New York Times, February 4, 2022, <https://www.nytimes.com/2022/01/31/us/puerto-rico-gentrification.html>

³ Víctor Rodríguez Velázquez & Kayla Youngy, *ACELERADA LA APROBACIÓN DE PERMISOS DE CONSTRUCCIÓN EN LA COSTA DURANTE EL PRIMER AÑO DE PIERLUISI*, Center for Investigative Journalism, January 27, 2022, <https://periodismoinvestigativo.com/2022/01/acelerada-construccion-costas-pedro-pierluisi/>

⁴ 50 CFR 10.13(a)

⁵ Metro Puerto Rico, *Preocupa nueva construcción en cueva Las Golondrinas en Aguadilla*, Metro Puerto Rico, April 29, 2022, <https://www.metro.pr/noticias/2022/04/29/preocupa-nueva-construccion-en-cueva-las-golondrinas-en-aguadilla/>

⁶ Gerardo E. Alvarado León, *Recursos Naturales ordena demolición de estructuras sobre la cueva Las Golondrinas en Aguadilla*, El Nuevo Día, May 20, 2022, <https://www.elnuevodia.com/noticias/locales/notas/recursos-naturales-ordena-demolicion-de-estructuras-sobre-la-cueva-las-golondrinas-en-aguadilla/>

⁷ "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands. 33 U.S.C. §1251 et seq. (1972).

⁸ 33 U.S.C. §1251 et seq. (1972)

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In July 2022, the U.S. Environmental Protection Agency (EPA) ordered the developers to cease discharging pollution flowing into the Atlantic Ocean, confirming that the construction project did not have the required Clean Water Act (CWA) permit authorization. Additionally, the EPA required them to submit an action plan within 30 days of the receipt of the order, where they must describe their proposed next steps to guarantee compliance, and to provide monthly progress reports.⁹

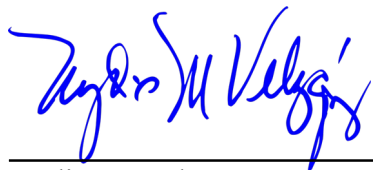
Despite these actions, neighbors of Aguadilla state that the construction is still in progress, perpetuating water pollution and the destruction of the habitat. In fact, less than a month ago, residents organized a protest at the construction site.¹⁰

Due to the recent developments, I respectfully ask you to provide us with an update on this case, including details on:

- 1) the Storm Water Pollution Prevention Plan (SWPPP) that developers were required to submit under EPA's enforcement action;
- 2) whether the agency is considering additional enforcement actions under the CWA, pursuant to the 33 U.S. Code § 1319; and
- 3) whether the developers are complying with the Resource Conservation and Recovery Act (RCRA) in their handling of solid and hazardous wastes and the Clean Air Act (CAA) in their use of mobile and stationary sources.

As government officials, it is our duty to represent the public interest and prevent another environmental catastrophe in the territory. A response is requested by September 30, 2022. Please contact Rachel Roman from my office at Rachel.Roman@mail.house.gov for any questions you may have. I thank you for your attention to this time-sensitive matter.

Sincerely,



Nydia M. Velázquez
Member of Congress

⁹ Brenda Reyes, EPA Orders Puerto Rico Developers to Stop Pollution Discharges from Construction Site, EPA (July 6, 2022), <https://www.epa.gov/newsreleases/epa-orders-puerto-rico-developers-stop-pollution-discharges-construction-site#:~:text=PUERTO%20RICO%20%E2%80%93%20The%20U.S.%20Environmental,flowing%20into%20the%20Atlantic%20Ocean>

¹⁰ José Ayala Gordián & Carlos Tolentino Rosario, *Citan a tres hombres por obstrucción y daños ocasionados durante protesta por construcción sobre cueva Las Golondrinas en Aguadilla*, El Nuevo Día, August 20, 2022, <https://www.elnuevodia.com/noticias/seguridad/notas/arrestan-a-cuatro-hombres-que-reclamaban-la-demolicion-de-estructuras-sobre-la-cueva-las-golondrinas-en-aguadilla/>